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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,888	09/17/2003	Xin Xue	SONY-26400	9089

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EXAMINER	
BLAIR, DOUGLAS B	

ART UNIT	PAPER NUMBER
2142	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/666,888	XUE ET AL.	
	Examiner	Art Unit	
	DOUGLAS B. BLAIR	2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 August 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23 and 29-43* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-23 and 29-43* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *8/15/08*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Claims 1, 21, and 29 are amended. Claims 1-23 and 29-43 are pending.

Response to Arguments

Applicant's arguments filed 8/22/2008 have been fully considered but they are not persuasive. The applicant argues that the amended limitation of "the server version and the subscriber version defined by the system" distinguishes the applicant's claims from the prior art of record. The Examiner disagrees. First, the amended terms are extremely broad and do nothing to actually limit the claims because version numbers must be defined by "the system" as claimed. In the applicant's claims, the system is not a specific entity but the entire system covering the entire invention. The Examiner contends that both Li and Nakayama can be interpreted as having versions defined by the system because the "system" is broad enough to cover anything. Second the applicant argues that claim 35 is patentable for this reasoning yet has not even amended claim 35 to incorporate the limitations that applicant is arguing are patentable.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Number 6,119,165 to Li et al.

As to claim 21, Li teaches a content distribution system comprising: a distribution server configured to transmit content, wherein the content comprises a server version **(col. 6, lines 1-9, the location containing software packages on the Internet is considered the distribution server)**; a hand held device comprising a device version, wherein the hand held device is configured to receive the content **(col. 6, lines 1-9, the client platform is the hand held device)**; an electronic proxy device comprising a version identifier, wherein the electronic proxy device is configured to receive the device version from the hand held device and the server version from the distribution server, and is further configured to compare the server version with the device version, and if the server version is greater than the device version, to download the content from the distribution server and to transmit the content to the hand held device; wherein the server version and the device version are defined by the system **(col. 6, lines 1-9, the software packages are always downloaded and therefore they satisfy the applicant's claimed conditional statement)**.

As to claim 22, Li's software packages are considered digital media.

Claims 29, 30, and 32-34 are rejected under 35 U.S.C. 102(a) and (e) as being anticipated by U.S. Patent Number 6,493,748 to Nakayama et al.

As to claim 29, Nakayama teaches a content subscription system comprising: a server **(Server Computer in Figure 1)**; a subscriber **(Local Computer in Figure 1)**; a server content identification circuit configured to transmit a first signal representative of a version identifier, wherein the version identifier corresponds to a first content stored within the server **(Figures 9 and 10 and corresponding text)**; a subscriber content identification circuit configured to receive the version identifier and the first content stored within the server, wherein the subscriber content identification circuit is further configured to generate a second signal representative of a subscriber version identifier, wherein the subscriber version identifier corresponds to a second content stored within the subscriber **(Figures 9 and 10 and corresponding text)**; and a content control circuit configured to transmit the first content to the subscriber content identification circuit in response to the second signal; wherein the version identifier and the subscriber identifier are defined by the system **(Figures 9 and 10 and corresponding text)**.

As to claim 30, Nakayama teaches the subscriber version identifier comprising a version number (col. 8, lines 38-43).

As to claims 32-33, Nakayama teaches digital media including JPEG (see Background).

As to claim 34, Nakayama teaches the content subscription system of claim 24, wherein the system further comprises an output signal generation circuit electronically coupled to the server and the subscriber and configured to detect a different between the version identifier and the subscriber version identifier and generate a control output signal that instructs he content control circuit to transmit he first content to the subscriber content identification circuit if the version identifier is greater than the subscriber version identifier **(col. 7 and 8)**.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-14, 18-19, 35-39, and 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,493,748 to Nakayama et al alone and alternatively in view of U.S. Patent Number 7,117,482 to Nguyen et al.

As to claim 1, Nakayama teaches a versions based content distribution system comprising: content comprising a version number; a syndicator, wherein the syndicator is configured to distribute the content; subscriber content comprising a subscriber version number; and a subscriber configured to store the subscriber content, to compare the version number with the subscriber content version number, and to receive the content from the syndicator wherein the version number and the subscriber content version number are defined by the system **(See mapping for claim 29)**; however Nakayama does not explicitly teach the comparison indicating whether the version number is larger.

Official Notice is taken that one of ordinary skill in the art would be able to compare numbers to determine which one is greater.

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Nakayama regarding subscriber version management with the a number size comparison because Nakayama does not mention a specific comparison technique and a number size comparison would be one possible choice.

Nguyen teaches a method for comparing software version number by determining which number is larger (See Abstract).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Nakayama regarding subscriber version management with the teachings of Nguyen regarding comparing the size of version numbers because Nguyen provides a specific example of the broad comparison method discussed by Nakayama. One of ordinary skill in the art would be able to compare numbers to determine which one is greater.

As to claim 2, the server is shown in Figure 1 of Nakayama.

As to claim 3, the browser in Figure of Nakayama is the display.

As to claim 4-6 and 37-39, Nakayama does not specify what type of local computer is being used. One of ordinary skill in the art would recognize that the local computer could be a PDA, other hand held device or PC without altering the scope of Nakayama.

As to claim 7, Nakayama teaches a "predetermined transfer method" as claimed.

As to claim 8-10, the transfer in Nakayama is considered application driven, isochronous, and one way.

As to claim 11, Nakayama uses a network so one of ordinary skill would recognize the use of an "IP method" as broadly claimed.

As to claim 12, In Nakayama the user controls what is downloaded. This is considered a preference.

As to claim 13, Figure 1 shows the server in Nakayama storing the content.

As to claim 14, Figure 1 of Nakayama shows a flat format structure.

As to claim s 18-19, they are rejected for the same reasoning as claims 32-33.

Claims 35 and its dependents are rejected for the same reasoning as claim 1 and its dependents.

Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,493,748 to Nakayama et al in view of U.S. Patent Number 6,990,498 to Fenton et al.

As to claims 15-17, Nakayama teaches claim 1; however Nakayama does not discuss the use of a tree structure.

Fenton teaches the tree structure claimed in claims 15-17 (See Abstract for example).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Nakayama regarding the distribution of content by comparing version numbers with the teachings of Fenton regarding a tree structure because a tree structure is an efficient method for providing data to users.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,493,748 to Nakayama et al in view of U.S. Patent Number 6,119,165 to Li et al.

As to claim 20, Nakayama makes obvious claim 1; however Nakayama does not explicitly teach a proxy as claimed in claim 20.

Li teaches a proxy as claimed in claim 20 (See the rejection of claim 21 for mapping).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Nakayama regarding the distribution of content by comparing version numbers with the teachings of Li regarding using a proxy in a separate computer because a proxy allows a client to access the internet using a singular portal (Background of Li).

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,119,165 to Li et al.

As to claim 23, Li anticipates claim 21 however Li does not explicitly teach the claimed data formats. Official Notice is taken that the claimed formats were well known at the time of the applicant's invention. It would have been obvious to one of ordinary skill at the time of the invention to combine the teachings of Li regarding downloading software packages from a web site with the concept of downloading the claimed content formats because the claimed formats would fall within the broad scope of Li's software packages and the would not require any modification to Li to be viable.

Claims 31 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,493,748 to Nakayama et al. in view of U.S. Patent Application Publication Number 2001/0042073 by Saether et al.

As to claim 31, Nakayama anticipates claim 29; however Nakayama does not teach a version identifier comprising a date and time stamp.

Saether teaches a version identifier comprising a time stamp (paragraph 50).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Nakayama regarding the distribution of content by comparing version numbers with the teachings of Saether regarding version comprised of time stamps because time stamps are one possible specific implementation of the broad disclosure on version numbers provided by Nakayama.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOUGLAS B. BLAIR whose telephone number is (571)272-3893. The examiner can normally be reached on 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Douglas B Blair/
Patent Examiner, Art Unit 2142